

UNITED STATES BANKRUPTCY COURT DISTRICT OF NEW JERSEY	
FORMAN HOLT ELIADES & YOUNGMAN LLC 80 Route 4 East, Suite 290 Paramus, NJ 07652 (201) 845-1000 Proposed Attorneys for Catherine E. Youngman, Chapter 7 trustee Kim R. Lynch (KL-5866)	
In Re:  NEW CENTURY TRANSPORTATION, INC.  Debtor.	Chapter 7  Case No. 14-22093
In Re  NORTHWIND LOGISTICS, LLC  Debtor.	Chapter 7  Case No. 14-22094
In Re  WESTERN FREIGHTWAYS, LLC  Debtor.	Chapter 7  Case No. 14-22095

**MOTION FOR ORDER DIRECTING THE  
JOINT ADMINISTRATION OF CHAPTER 7 CASES**

TO THE HONORABLE JUDGES OF THE UNITED STATES BANKRUPTCY COURT:

Catherine E. Youngman, the chapter 7 trustee (the "Trustee") for New Century Transportation, Inc. ("New Century"), Western Freightways, LLC ("Western Freightways") and Northwind Logistics, LLC ("NorthWind Logistics" and, together with New Century and Western Freightways, the "Debtors"), through her proposed attorneys, Forman Holt Eliades & Youngman

LLC, submits this application for entry of an Order pursuant to Rule 1015(b) of the Federal Rules of Bankruptcy Procedure (the “Rule 1015(b)”) directing the joint administration of the Debtors’ chapter cases. In support thereof, the Trustee respectfully represents that:

**A. Jurisdiction**

1. The Court has jurisdiction over this motion pursuant to 28 U.S.C. §§ 157 and 1334.
2. This matter is a core proceeding pursuant to 28 U.S.C. § 157(b)(2).
3. Venue of this proceeding and this motion in this District is proper pursuant to 28 U.S.C. §§ 1408 and 1409.
4. The basis for the relief sought herein is Bankruptcy Rule 1015(b).

**B. Background**

1. On June 10, 2014 (the "Petition Date"), each of the Debtors filed a voluntary petition for relief under chapter 7 of title 11 of the United States Code, 11 U.S.C. §101 *et seq.* (the "Bankruptcy Code").

2. On that same date, the Office of the United States Trustee appointed the Trustee to serve as the chapter 7 trustee for each of the Debtors' estates.

**C. The Debtors**

3. New Century is a foreign corporation formed in the year 2000 to conduct over-the-road transportation services. New Century also provided warehousing services to its many customers. New Century's principal place of business is located in Westhampton, New Jersey.

4. Western Freight was acquired by New Century in 2006. Western Freight is a trucking company that conducted its business out of its location in Denver, Colorado.

5. Northwind Logistics operated out of Northhampton, New Jersey and provided truckload brokerage, ground expedite, air freight and intermodal services.

6. New Century is also the sole member of Western Freightways and NorthWind Logistics.

7. Combined, the Debtors employ over 1500 employees throughout the United States.

8. The Debtors' assets total approximately \$50 million and consist of office equipment and machinery, approximately 2000 trucks and trailers and accounts receivable.

9. The Debtors' assets are alleged to be secured by a first lien held by Capital One Leverage Finance Corp. in the approximate amount of \$35 million and a second lien held by Prospect Capital Corporation in the approximate amount of \$35 million.

10. Capital One Leverage Finance Corp. has consented to the use of its cash collateral on a limited basis to assist the Trustee in winding down the Debtors' business operations and liquidating the Debtors' assets.

#### **RELIEF REQUESTED**

11. Through this Motion, the Trustee respectfully requests the entry of an Order pursuant to Rule 1015(b) directing the joint administration of the Debtor's cases for procedural purposes only.

12. Rule 1015(b) provides, in relevant part, that “[i]f . . . two or more petitions are pending in the same court by . . . a debtor and an affiliate, the court may order a joint administration of the estates.”

13. Pursuant to section 101(2) of the Bankruptcy Code, the term “affiliate” includes:

(A) [an] entity that directly or indirectly owns, controls, or holds with the power to vote, 20 percent or more of the outstanding voting securities of the debtor... [or]

(B) [a] corporation 20 percent or more whose outstanding

voting securities are directly or indirectly owned, controlled, or held with power to vote, by the debtor, or by an entity that directly or indirectly owns, controls, or holds with power to vote, 20 percent or more of the outstanding voting securities of the debtor, other than an entity that holds such securities - (i) in a fiduciary or agency capacity without sole discretionary power to vote such securities; or (ii) solely to secure a debt, if such entity has not in fact exercised such power to vote.

11 U.S.C. §101(2). The definition of “affiliate” is broad “to help the Bankruptcy Court administer economically and efficiently different estates with substantial interests in common.

*In re A&S Transportation Co., Inc.*, 55 B.R. 786, 791 (Bankr.M.D.Tenn. 1982)(quoting *In re Brookhollow Assocs.*, 435 F.Supp. 763, 766 (D.Mass. 1977), aff’d 575 F.2d 1003 (1<sup>st</sup> Cir.1978)).

14. The Debtors are affiliates as defined under the Bankruptcy Code. As previously stated, New Century is the sole shareholder of Western Freightways and NorthWind Logistics.

15. Joint administration of these cases, including combining notices to creditors of the respective estates, as well as notices and hearings of all matters at the same time, will promote the economical, efficient and convenient administration of the Debtors’ estates.

16. To the best of the Trustee’s knowledge, joint administration will not raise any conflicts of interest.

17. Further, since the Trustee is not seeking substantive consolidation at this time, she submits that the rights of creditors of each of the Debtors will not be adversely affected by joint administration of these cases.

**NO PRIOR REQUEST**

18. The Trustee has not sought the relief requested from this or any other Court.

WHEREFORE, the Trustee respectfully request that this Court enter an Order directing the joint administration of the Debtors' cases and granting such other and further relief as the Court may deem just and proper.

FORMAN HOLT ELIADES & YOUNGMAN LLC  
Proposed Attorneys for the Trustee

By: /s/ Kim R. Lynch  
Kim R. Lynch

Dated: June 12, 2014